

CITY OF WOODBURN

CITY COUNCIL AGENDA

MAY 8, 2006 – 7:00 P.M.

KATHRYN FIGLEY, MAYOR
WALTER NICHOLS, COUNCILOR WARD I
RICHARD BJELLAND, COUNCILOR WARD II
PETER MCCALLUM, COUNCILOR WARD III
JAMES COX, COUNCILOR WARD IV
FRANK LONERGAN, COUNCILOR WARD V
ELIDA SIFUENTEZ, COUNCILOR WARD VI

CITY HALL COUNCIL CHAMBERS – 270 MONTGOMERY STREET

1. **CALL TO ORDER AND FLAG SALUTE**
2. **ROLL CALL**
3. **ANNOUNCEMENTS AND APPOINTMENTS**

Announcements:

- A. The City and Urban Renewal Budget Hearings will be held on May 20, 2006 at 9:00 a.m. in the City Hall Council Chambers.
- B. Primary Election, May 16, 2006: Woodburn City Hall is a designated Marion County ballot drop site during regular business hours of 7:30 a.m. to 5:30 p.m.; however, the City Hall lobby area will be open until 8:00 p.m. on Election Day.
- C. Marion County Board of Commissioners will continue the public hearing regarding Legislative Amendment 06-2, the Woodburn Periodic Review, on May 24, 2006 at 6:30 p.m. in the Council Chambers. At 6:00 p.m., they will conduct a public hearing on Marion County's Butteville Road issue.

Appointments:

None.

4. **PROCLAMATIONS/PRESENTATIONS**

Proclamations:

- A. Police Memorial Week – May 14 – 20, 2006

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Presentations:

- B. County Strategic Plan Update – Commissioner Patti Milne

“Habr  interpretes disponibles para aqu llas personas que no hablan Ingl s, previo acuerdo. Comuniquese al (503) 980-2485.”

5. COMMITTEE REPORTS

- A. Chamber of Commerce
- B. Woodburn School District

6. COMMUNICATIONS

None.

- 7. BUSINESS FROM THE PUBLIC** – *This allows the public to introduce items for Council consideration not already scheduled on the agenda.*

- 8. CONSENT AGENDA** – *Items listed on the consent agenda are considered routine and may be enacted by one motion. Any item may be removed for discussion at the request of a Council member.*

- A. Woodburn City Council minutes of April 24, 2006** **2**
Recommended Action: Approve the minutes.
- B. Woodburn Planning Commission draft minutes of April 27, 2006** **17**
Recommended Action: Accept the draft minutes.
- C. Planning Tracking Sheet dated May 4, 2006** **26**
Recommended Action: Receive the report.
- D. Building Activity for April 2006** **29**
Recommended Action: Receive the report.
- E. Intergovernmental Agreement for Interchange Funding** **30**
Recommended Action: Information only.

9. TABLED BUSINESS

None.

10. PUBLIC HEARINGS

None.

- 11. GENERAL BUSINESS** – *Members of the public wishing to comment on items of general business must complete and submit a speaker's card to the City Recorder prior to commencing this portion of the Council's agenda. Comment time may be limited by Mayoral prerogative.*

- A. Council Bill 2625 – Ordinance adopting Mill Creek Greenway Master Plan and making legislative findings** **37**
Recommended Action: Adopt the ordinance.

- B. **Outside City Limits Water Service at 280 S. Pacific Highway** **41**
Recommended Action: Authorize disconnection of water service to 280 S. Pacific Highway.

- C. **Settlemer Park Lighting Upgrade – Phase 1** **48**
Recommended Action: Authorize an additional expenditure not-to-exceed \$18,287 on the contract previously awarded to Kerr Contractors for the Settlemer Park Lighting Upgrade.

- D. **Council Bill 2626 – Resolution authorizing the transfer of operating contingency appropriations during fiscal year 2005-06** **51**
Recommended Action: Adopt the resolution.

- E. **Liquor License – New Outlet** **54**
Recommended Action: Recommended that the Oregon Liquor Control Commission approve a liquor license application for Lil' Bit Distillery Inc.

- F. **Liquor License Change of Ownership** **57**
Recommended Action: Approve a change of ownership application for El Armadillo Loco.

- 12. **NEW BUSINESS**

- 13. **PLANNING COMMISSION OR ADMINISTRATIVE LAND USE ACTIONS** – *These are Planning Commission or Administrative Land Use actions that may be called up by the City Council.*
 - A. **Planning Commission's Approval of Planned unit Development 05-01 and Variance 06-01 located on Lot No. 1 of the Town Center at Woodburn Plat** **60**

- 14. **CITY ADMINISTRATOR'S REPORT**

- 15. **MAYOR AND COUNCIL REPORTS**

- 16. **EXECUTIVE SESSION**
 - A. To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed pursuant to ORS 192.660 (1)(h).

 - B. To consider records that are exempt by law from public inspection pursuant to ORS 192.660 (1)(f).

- 17. **ADJOURNMENT**

PROCLAMATION

Police Memorial Week

WHEREAS, The Congress and President of the United States have designated May 15, 2006 as Peace Officers' Memorial Day, and the week in which May 15th falls as National Police week; and

WHEREAS, the members of the Woodburn Police Department play an essential role in safeguarding the rights and freedoms of the citizens of Woodburn; and

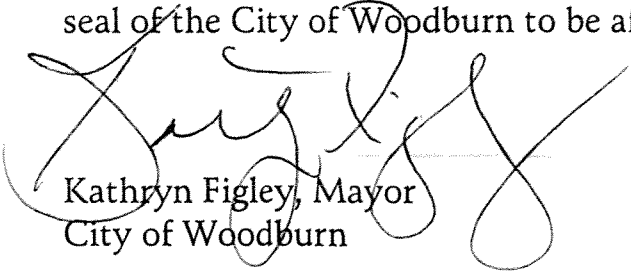
WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

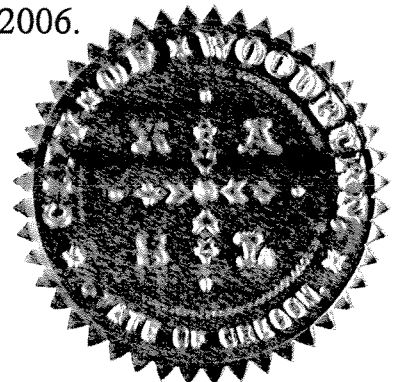
WHEREAS, the men and women of the Woodburn Police Department unceasingly provide a vital public service;

NOW, THEREFORE, I, KATHRYN FIGLEY, Mayor of the City of Woodburn, call upon all citizens of Woodburn and upon all patriotic, civic and educational organizations to observe the week of **May 14th – May 20th, 2006, as Police Week** with appropriate national and local ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities.

I further call upon all citizens of Woodburn to observe Sunday, **May 15th, 2006 as Peace Officers' Memorial Day** in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Woodburn to be affixed this 8th day of May 2006.


Kathryn Figley, Mayor
City of Woodburn



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0001 **DATE. COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN,
COUNTY OF MARION, STATE OF OREGON, APRIL 24, 2006.**

CONVENED. The meeting convened at 7:00 p.m. with Mayor Figley presiding.

0025 **ROLL CALL.**

Mayor	Figley	Present
Councilor	Bjelland	Present
Councilor	Cox	Present
Councilor	Lonergan	Present
Councilor	McCallum	Present
Councilor	Nichols	Present
Councilor	Sifuentez	Present

Staff Present: City Administrator Brown, City Attorney Shields, Public Works Director Tiwari, Police Chief Russell, Interim Community Development Director Zwerdling, Public Works Manager Rohman, Recreation Services Manager Patterson, City Recorder Tennant

0050 **ANNOUNCEMENTS.**

A) Marion County Board of Commissioners will hold a public hearing regarding City of Woodburn Legislative Amendment 06-2, the Woodburn Periodic Review, in the City Hall Council Chambers on Wednesday, April 26, 2006, at 7:00 p.m..

B) Registration for Summer Recreation Programs will begin on May 1, 2006 at the Aquatic Center.

C) Woodburn Public Library Spring Concert series will host the vocal harmonies of Jodee Midura, Mary Curtis, Sally Holstead and Patti Eamons on Sunday, May 7, 2006, 2:00 p.m., in the City Hall Council Chambers.

0105 **APPOINTMENT TO LIBRARY BOARD.**

Mayor Figley appointed Phyllis McKean to Position VI of the Library Board with her term to expire December 31, 2008. Ms. McKean was in attendance at the meeting to answer any Council questions.

NICHOLS/MCCALLUM... approve the appointment of Phyllis McKean to the Library Board - Position VI, with a term expiration date of December 31, 2008.

The motion passed unanimously.

The Mayor also thanked Ardis Knauf who had served on the Library Board for at least 18 months longer than what she really wanted to serve but had agreed to stay on the Board until such time as another individual was appointed.

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0186 **PROCLAMATION: VOLUNTEER WEEK - APRIL 23-29, 2006.**

Mayor Figley read the proclamation declaring the week of April 23-29, 2006 as Volunteer Week in the City of Woodburn and encouraged residents to recognize all volunteers for their time, energy, and talents in helping others within our community. She stated that she had read the proclamation at yesterday's Open House at the Library's 100th Birthday Celebration in recognition of the many volunteers who devote time to the Woodburn Library and/or Woodburn Museum.

0275 **PRESENTATION: FOOD DRIVE DONATION.**

Mike Conzoner, Superintendent of MacLaren School, stated that the employees of MacLaren participate in the annual Governor's Food Drive. This year's contribution to the AWARE Food Bank was 6,075 pounds of food which equates to \$1,012.00. He presented a check to a representative of the AWARE Food Bank. Mayor Figley thanked Mr. Conzoner for MacLaren's support of programs within our community.

0440 **PRESENTATION: POLICE DEPARTMENT - AFTER APRIL 13, 2006**
INCIDENT REPORT.

Police Chief Russell stated that there was an April 13, 2006 protest rally in Woodburn relating to potential federal legislation on immigration issues. The Police Department had been unable to obtain much information on what would be occurring and who all would be involved until Wednesday, April 12th, and even then there was very limited information available. This was a loosely organized coalition and students from Woodburn, Gervais, North Marion, and Silverton participated in this event. There was no parade permit applied for or issued by the City and the event did not require street closures. It was estimated that between 400-800 people participated with the initial gathering location at French Prairie Middle School. Participants walked on the sidewalk along Highway 214 to the vacant lot located just east of the I-5 Interchange. Following a brief rally, the participants transitioned backed to French Prairie, the high school, or back to the area from which they came. There were no buses or other organized transport available to get the students to the rally. Overall, it was an orderly rally but there was some minor rock throwing that was quickly controlled. The City received mutual aid assistance from the Marion County Sheriff's office, State Police, Keizer Police, Sherwood Police, Lake Oswego Police, Salem Police and ODOT. He stated that the Oregon State Police Mobile Response Team (Crowd Control Unit) was on standby but there was no need for them to be used since the crowd did not get out of control. Councilor McCallum questioned if any organization could be identified for organizing this event.

Chief Russell stated that it was a number of students from various schools who organized the event. There were some individuals from PCUN and some of their affiliated organizations assisting just prior to the event to get the students organized and on the

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sidewalks. They also provided some adult supervision during the rally.

Councilor McCallum expressed his appreciation to the Woodburn Police Department and to the other agencies who provided mutual aid assistance so that the event was made as safe as possible.

Mayor Figley also expressed her appreciation to the Police Department and local agencies who assisted in crowd control for this protest march.

Councilor Lonergan inquired as to whether or not another rally would be held in the City on this issue.

Chief Russell stated that there is a likelihood that the City will see some strong positions on both sides as long as Congress is active on this subject. He has become aware of events scheduled in larger cities on May 1, 2006 but his department is working on contingency planning in case there is some spot protest within our community.

Councilor Nichols did compliment the students who walked on Highway 219 back towards Gervais since they were walking in a very peaceful and orderly fashion.

It was noted that there were approximately 25-30 officers working to keep this event under control for a total of 114 man hours.

Councilor Cox also expressed his appreciation to the Police Department in that they approached this rally with the right attitude by recognizing that people have a right to do what they did and the Department's job was to protect the public's health and safety.

1409 **PRESENTATION: POLICE FACILITY UPDATE.**

Chief Russell stated that construction is scheduled for completion in September 2006 and occupancy soon after. Construction costs continue to be under the target budget and the Construction Manager has assured him that the major budget risks have been addressed. The building will be an efficient and effective work place that will be survivable and operational in the event of a major disaster. He reviewed the construction process that has been completed to date and showed a number of slides beginning with site preparation to current installation of structural steel and stud wall installation. The building will look very much like the conceptual design which was shown to the voters prior to the vote on the bond issue.

Councilor Bjelland questioned what the final decision was on the roofing material.

Chief Russell stated that it will be a 20-year steel roof with a laminate coating since the copper roofing material originally discussed was cost prohibitive.

2114 **CHAMBER REPORT.**

Deb Jaeger, representing the Chamber Board, reported that the Branding process is moving forward and the Woodburn Brand Strategy Assessment phase was provided background materials and records from the research and community consultation conducted by Total Destination Management. On April 19th, an opening ceremony was held at Woodburn Company Stores for the new information kiosk. She also stated that Kim Gieger is the new Administrative Assistant at the Chamber and she is replacing

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Ronda Judson who is retiring after serving the Chamber for many years. The Chamber is planning a celebration to honor Ronda Judson which will be held at the Chamber office on Friday, April 14th, from 4:00 pm until 6:00 pm.. Lastly, the Chamber is working with SEDCOR and Chemeketa to create a Truck Driver Training program which would include truck driving and customer service.

Councilor McCallum stated that Ms. Judson has requested that in lieu of gifts, donations be given to Relay for Life for the Chamber team.

2290 Jackie Ito, 4555 37th Ave, Salem, stated that she is a member of the Rodriguez family who would like to speak to the Council about Agenda Item 11F.

Mayor Figley requested that she hold her comments until the item is discussed by the Council.

2399 **CONSENT AGENDA.**

A) approve the regular and executive session Council minutes of April 10, 2006;

B) accept the draft Planning Commission minutes of April 13, 2006;

C) receive the Police Department Statistical report for March 2006;

D) receive the report on the Aquatic Center Revenue Comparison through March 2006;

E) receive the Recreation Services Division attendance reports for February and March 2006;

F) receive the Recreation Services Division winter and spring revenue reports for February and March 2006;

G) receive the claims report for March 2006;

H) receive the report on the removal of street tree located at 255 N. Second Street; and

I) consent to the City Administrator's removal, without cause, of D. Randall Westrick from the position of Recreation and Park Director effective April 13, 2006.

Councilor McCallum brought up the tree removal report for Council discussion. He stated that he had reviewed the arborist report and, after visiting the site, felt that it was a weak report in that it did not say that it was a safety hazard. His concern is that this is a significant tree and he questioned if pruning of this tree might not be applicable rather than removal since the tree is experiencing new growth.

2618 Councilor Lonergan declared a possible conflict of interest since he is a neighbor to the property owner requesting the tree removal and he has been familiar with the tree for over 40 years. He removed himself from the Council bench.

Public Works Director stated that staff is very conscious of any trees in public right-of-way and before they are removed, they must be reviewed by the City. The property owners have the privilege to maintain and enjoy any tree within the right-of-way and the City does provide some subsidy to property owners in the event there is a need for major pruning or tree removal.

Councilor McCallum questioned what the expense would be for pruning versus tree removal. He also stated that he did not see in the report anything that would indicate

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there is a health and safety issue that needs to be addressed.

Director Tiwari stated that tree pruning would be similar in cost to tree removal. In this case, something needs to be done to make the area safer for pedestrians and motorists. The property owner had requested that the tree be removed and the City contracted with the arborist to inspect and provide a report.

Councilor Cox also felt that the report did not justify that the tree should be removed.

Mayor Figley stated that she did not like to ask for the property owner or the City to double pay by first doing a major pruning job followed by tree removal a short time later. Councilor McCallum stated that he had found in his past experience with trees that it was easier to have them trimmed rather than removal when there was no hazard issue to address.

Councilor Cox felt that it would be advantageous for Public Works to analyze if the City knows and trusts the arborist and if they are uncomfortable with this arborist, then move forward with having another arborist evaluate the tree. If staff is comfortable with this arborist, then ask him to provide supplemental information to his report so that the Council can make a final decision.

Frank Lonergan, 245 N. Second St., stated that during the fall and summer months the tree is beautiful. However, cars are parked under the tree about 15 hours out of each day and several times he has seen limbs fall from the tree. The tree needs some serious pruning and it has torn up the sidewalk over the years. He stated that part of the fault lies with the power and telephone companies in that they have gone through the center of the tree and gutted out the interior making it an unattractive tree. He stated that there is a safety concern in that branches do fall from the tree and this has been on-going for a long time.

Cameron Fleck, 255 N. Second, stated that he purchased the home several months ago with the intent of rebuild it to look as nice as Frank Lonergan's home which more likely boost up the property values in that area. He stated that he is willing to take out the tree and the concrete at his expense. He also stated that he had acquired pictures of the tree from the 1950's and it looks the same size now as it was then. He is concerned about the health of the tree based and requested that he be allowed to remove it and replace it as required under the City's tree ordinance.

Mayor Figley stated that she would like to obtain an explanation from the arborist as to what "in decline" means since it makes no sense to require the homeowner and taxpayer pay twice if it is a situation that is inevitable.

BJELLAND/SIFUENTEZ... consent agenda be approved as presented. On roll call vote, the motion passed 3-2 with Councilors McCallum and Cox voting nay (Councilor Lonergan did not take part in the vote due to a conflict of interest).

Councilor Lonergan returned to the Council bench at 7:59 p.m..

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**3960 PUBLIC HEARING ON LEGISLATIVE AMENDMENT 06-01: MILL CREEK
GREENWAY MASTER PLAN.**

Mayor Figley declared the public hearing at 8:00 p.m..

Interim Community Development Director Zwerdling stated that this plan is being processed as a Type 5 Legislative Application and the Planning Commission held a public hearing on this application on March 9, 2006. The Commission adopted a final order recommending approval of the Master Plan at their March 23, 2006 meeting.

4144 Herb Mittmann, Park Board Chair, stated that there has been a lot of community members involved in the development of this plan which included community meeting. A National Park Service plan was used as a guide to develop this plan which will be a basis for any design and construction in the future. He reiterated that the master plan has been done in a broad sense and the design aspect is the next phase. In order to apply for funding sources, the master plan must first be adopted by the City. He stated that the design work must be completed for the whole system rather than doing the work in segments. All of the comments made by the public in the development of the master plan will be considered in the design phase. Questionnaires were distributed to the entire community to obtain information on the greenway master plan and neighborhoods were involved in this process. He stated that there are still some issues pending on property rights in some areas but that will be worked out during the design process.

4488 Bruce Thomas, 795 Corby St., expressed his support of the greenway master plan. He stated that the process has been going on for more than the two years in which he was involved in and, once adopted and construction projects take place, this greenway will enhance the City. In his opinion, the greenway should be done in small sections and each section should be done correctly. When finished, residents will be able to access some portion of the greenway within 5 minutes of their home or business and the greenway will touch almost every major school and park with a continuous loop through the City. The path would be wide enough for maintenance vehicles to use in order to take care of the greenway but access will be limited to walkers, runners, hikers, bicyclists, and handicapped vehicles. Additionally, the path will include signage, benches, and workout stations.

Richard Morris, 1210 Judy Street, stated that he was in favor of the plan and he had participated to some extent in the process. He complimented those individuals who put the plan together. Since the area is considered as wetlands, developing the greenway will beautify the area for the City and the neighborhoods.

4942 Sue Christensen, P.O. Box 997 Woodburn, stated that she had participated in some of the meetings for the greenway and shared her concern on the width of the path since it ranges from a minimum of 3 foot wood chips or crushed rock, a minimum of 10 feet for asphalt, and a minimum of 3 feet of paved rest area, bench, and trees. This totals a minimum width of 16 feet which, in her opinion, is a roadway width and felt that this width would encroach into the protected wetlands area. A wetlands study had been completed by the City several years ago which resulted in a commitment by the City to protect the wetlands

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and she did not feel that this plan would provide that level of protection.

Interim Director Zwerdling stated that the Woodburn Development Ordinance does have a significant wetland overlay district and any development in a protected wetland area does give referrals to the Department of State Lands and they review proposals. Any restroom facility or play equipment would also be looked at through the Planning Department. Further planning will be required before actual construction projects are allowed along the greenway.

Mayor Figley declared the public hearing closed at 8:14 p.m..

Councilor Bjelland reminded the public that is an approval of a master plan and it will still need to go through design considerations. Issues pertaining to the width and location of the pathway will be addressed and, in those cases where the pathway would be going through areas where it could be sensitive to nature and wetland issues, he hoped that the design would allow for less obtrusive or narrower paths in those areas. He stated that Ms. Christensen expressed valid concerns and hoped that they would be addressed in the final design of the actual pathway.

Councilor McCallum stated that he was pleased with the number of people who participated in this project and in the number of opportunities given to the public to respond to this process.

COX/NICHOLS... approve the Mill Creek Greenway Master Plan Legislative Amendment 06-01 and instruct staff to prepare an ordinance with findings to substantiate the decision. The motion passed unanimously.

5497 PUBLIC HEARING: SALE OF SURPLUS PROPERTY AT 670 GATCH STREET.

Mayor Figley declared the public hearing open at 8:18 p.m..

Administrator Brown stated that the Council had given staff the direction to begin selling City property that the City had no further use for and the revenues from the sale of these lands would generate some revenue towards a new Community Center. The forms of sale utilized have included a real estate sale, a competitive bid process, and, in this case, a negotiated sale with a non-profit agency. Under State law, the City is required to notice, and hold a hearing in order to give the public an opportunity to comment on the proposed sale. He stated that an appraisal was done in January 2002 and it was based on the assumption that it would be two of lots of undeveloped land. The appraised value at that time was \$45,000 and it assumed that the quality of property was good buildable land. However, the City has been using this property for many years for disposal of soil from City projects with questionable material in some of the soil. Additionally, there were some 55-gallon drums at the site that suggested that there might be some type of pollution at the site. In 2001, the City did a Level I environmental analysis and there was enough concern generated out of that assessment that additional environmental work be need to done before this property was sold. In regards to development impact fees, it has been over 10 years since the Council has granted any adjustments to these fees. Approximately 3 years ago he was contacted by Habitat for Humanity seeking for City owned property in

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which they could purchase at a reasonable amount so that they could make the difference up on the fees that they would otherwise be paying. Discussion was held with the organization regarding this 6,700 sq.foot lot and a sales price was arrived at for \$15,000.00. Based on previous Council direction regarding this potential agreement, the sales agreement includes a number of conditions including a provision in that the property would revert back to the City if the property is not developed as planned and a non-remonstrance agreement in case the City ever decides to propose a local improvement district for Gatch Street improvements. It was also noted that a significant amount of work has been done by Habitat for Humanity at their cost which includes additional valuation of the site, engineers have evaluated site to determine the structure that can be built on the site, cost of the survey work to partition the lot, and pay for all title transfer costs. He stated that the advantage of this sale is that it gives the City an opportunity to sell a parcel of land that is marginal, it gives Habitat for Humanity an opportunity to build another home in Woodburn that will be owner-occupied by a family who will help in the construction of the home, and the property will be placed on the tax rolls.

Councilor Cox questioned if the reverter conditions would be a part of the deed of conveyance when the transaction is closed, therefore, the owner would not be able to sell the property in future years without being subject to these conditions.

Administrator Brown stated that at the time the agreement was prepared the intention was that Habitat for Humanity would do what they said they were going to do with the property within a reasonable time frame. These provisions are not really necessary at this time but are reflective of the document that has been signed. Habitat for Humanity is very excited about this project and have scheduled a groundbreaking for Saturday, May 1, 2006, and they have a person identified to build the home immediately.

Councilor Cox stated that there should not be a condition on the property that would limit its use many years into the future.

Administrator Brown stated that the resolution within the agenda packet could be amended prior to adoption to keep those provisions that the Council feels should be retained.

Mayor Figley stated that she did not feel that they should be included in the deed since it is apparent that Habitat for Humanity will move forward with the building of an owner-occupied home.

Councilor Sifuentez questioned if Habitat for Humanity is concerned with building on a fill site.

Administrator Brown reiterated that they have done their own engineering inspection work and they do not see it as a problem, however, they do proceed at that risk.

Councilor Cox also stated that this is always the possibility that if something really bad is discovered on the lot, the City could have a contingent liability for the cost by being in the chain of title even though we may not have caused the problem.

Attorney Shields stated that warranties are fairly basic in this type of sale and it does state that the City, to our knowledge, has used the property in compliance with environmental

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regulations. There will always be the prospect that the City might be included in a legal action if an environmental issue is brought forth. In this case, the property is being sold "as is".

- 0178 Jodee Fischer, President of the North Willamette Valley Habitat for Humanity, expressed her appreciation to the Council for working with their organization and urged the Council to adopt the Resolution.

Richard Jennings, 575 Filbert Street, stated that the area has been filled over the years and questioned what might happen if the fill does have some environmental issues in the future. He stated that he is in favor of the property sale but he wanted to be sure that Habitat for Humanity knows that this lot does have underground fill.

Councilor McCallum stated that he has seen a lot of fill go into this large parcel over the years but he had also seen a lot of good earth being used as fill.

Councilor Bjelland stated that the full parcel size is approximately 32,600 square feet which has been subdivided into two parcels one of which is the lot being sold at only 6,700 square feet. He felt that the majority of the land fill is in the large parcel being retained by the City and this part of the lot has the least amount of fill and the best location for placement of a structure. Based on the information received, Habitat for Humanity has done some due diligence from their standpoint to make sure that the site will meet state standards.

- 0412 Jerry Blem, 759 Blaine Street, stated that he lives 2 lots away from the property being considered for sale. He stated that he was unaware that this parcel was going to be sold by the City and he had been looking for a parcel in the area to build a home on for himself and would have liked to have had the opportunity to make an offer on the land. He stated that he is a life-long resident of Woodburn and has been looking in that area for a vacant lot for a building site.

- 0485 Councilor Sifuentez questioned Mr. Blem if he would have been interested in the lot if it had been up for sale 5 years ago.

Mr. Blem stated that he was unaware of the City's intention to put that lot up for sale. He had been under the assumption that when City property was put up for sale it was either posted or listed for sale so that the public had an opportunity to purchase.

City Attorney Shields reviewed the process the City must follow when it sells property. It was noted that it is possible to have a competitive sale if the City thinks it serves the public's interest. It is also possible, like in this situation, to have a negotiated sale. There is some legislation and litigation that upheld negotiated sales since it is not a land use decision and that under the state statute the City merely has to determine that it is surplus property and that it is in the City's interest to sell the property. Within State Statute Chapter 221, cities are required to publish a notice of sale, outline the terms of the sale, property value and how it is determined, and declare it as being surplus property. He reiterated that the public has a right to discuss the sale of surplus property with the Council.

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0768 Mayor Figley declared the public hearing closed at 8:42 p.m..

Councilor Cox stated that there are two conflicting policies to discuss and the Council needs to make a judgment call on which policy to follow. One policy is for the City to obtain maximum dollar for public property and everybody should be treated equally. Another policy is that there are certain programs and organizations in which the Council favors their policies and they be given the opportunity to negotiate with the City without opening up the process to anyone else who would offer a dollar more. He stated that this is surplus property that needs to be sold and he has no problem with the proposed transaction except for some details about the terms.

Councilor McCallum felt that the Council has not provided subsidies over the past several years and felt that a fair transaction will be made with Habitat for Humanity since the property could have been difficult to sell under the circumstances.

Councilor Bjelland stated that many cities do land banking for projects like this in order to provide it to developers of affordable housing as low market prices. Additionally, Habitat for Humanity has invested a lot of their time and money into making sure that this sale goes through and it would be unfair to them to put this out into an open competitive bid.

Mayor Figley agreed that Habitat for Humanity has acted in good faith and the City has tried to act in good faith with them. At this point, she felt that the City would be breaching that faith and trust if the negotiated sale did not go through. There is a family counting on having their home being constructed and she is supportive of this sale.

Councilor Sifuentez also expressed her support of the negotiated sale but encouraged residents interested in purchasing surplus City property to contact City Hall to see what other property might be available.

COX/MCCALLUM... declare this property as surplus property and approve the sale to Habitat for Humanity after the staff has drafted an appropriate resolution documenting the Council's decision, and the sale price be \$15,000.00. On roll call vote, the motion passed unanimously.

1198 COUNCIL BILL 2621 - RESOLUTION DECLARING CERTAIN CITY
PROPERTY LOCATED AT 670 GATCH STREET TO BE SURPLUS
PROPERTY AND AUTHORIZING THE CITY ADMINISTRATOR TO SELL
SAID PROPERTY TO HABITAT FOR HUMANITY.

Councilor Sifuentez introduced Council Bill 2621. Recorder Tennant read the bill by title only since there were no objections from the Council.

COX/LONERGAN... amend to delete sub-paragraph A of Section 4 concerning single family owner-occupied self-help homesite, and secondly, to further amend Section 4 by adding a provision that the buyer will agree to indemnify to the extent permitted by law the City against future liability for environmental clean-up on the site.

Habitat for Humanity representatives did not object to the language as proposed in the motion.

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READING**

On roll call vote, the motion to amend passed unanimously.

On roll call vote for final passage, the bill passed unanimously as amended. Mayor Figley declared Council Bill No. 2621 duly passed.

1488 COUNCIL BILL NO. 2622 - RESOLUTION ENTERING INTO GRANT AGREEMENT NO. 22829 WITH THE STATE OF OREGON.

Council Bill No. 2622 was introduced by Councilor Sifuentez. The bill was read by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2622 duly passed.

1543 COUNCIL BILL NO. 2623 - RESOLUTION AUTHORIZING THE TRANSFER OF OPERATING CONTINGENCY APPROPRIATIONS DURING FISCAL YEAR 2005-06.

Council Bill No. 2623 was introduced by Councilor Sifuentez. Recorder Tennant read the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2623 duly passed.

1606 COUNCIL BILL NO. 2624 - RESOLUTION ENTERING INTO AN INMATE WORK PROGRAM AGREEMENT WITH THE STATE OF OREGON FOR USE OF INMATE WORK CREWS AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN SUCH AGREEMENT AND FUTURE STATE OF OREGON INMATE WORK PROGRAM AGREEMENTS FOR USE OF INMATE WORK CREWS THAT MAY BE RECEIVED BY THE CITY.

Councilor Sifuentez introduced Council Bill No. 2624. The bill was read by title only since there were no objections from the City.

Mayor Figley stated that utilization of the work crews have enhanced the condition of the parks and has freed our staff to do the skilled work necessary to keep up park maintenance for public use.

Councilor McCallum questioned if the City has had any problems in the past with this program.

Administrator Brown stated that the City has not had any problems as of this date.

Public Works Manager Rohman stated that he had not heard of any problems and that the State does a thorough screening of inmates to determine who will be allowed to work as part of one of these crews.

On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2624 duly passed.

1773 CONTRACT AWARD: STREET RESURFACING IMPROVEMENTS.

Bids were received from the following contractors for resurfacing Rainier Road, Thompson Road, Vanderbeck Lane, Cahill Way, Broughton Way, Dellmoor Way,

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Hampton Way, and Ecola Way: Morse Bros. Inc., \$274,999.35; Parker Northwest Paving, \$299,544.80; Eagle-Elsner, \$314,991.10; D & D Paving, \$315,176.05; Salem Road & Driveway, \$322,932.05; North Santiam Paving, \$325,559.95; Roy L. Houck, \$333,333.33; Brix Paving, \$364,575.71; and Hoss Paving, \$371,559.20.

NICHOLS/MCCALLUM..... award the construction contract to the lowest responsible bidder, Morse Bros., Inc., for resurfacing improvements to various streets in the amount of \$274,999.35. The motion passed unanimously.

1822 WATER SERVICE AT 280 S. PACIFIC HIGHWAY.

Administrator Brown stated that there is a request to defer any consideration on this item since the attorney representing the property owner was unable to attend due to illness. Councilor Cox suggested that the Council postpone this item for 30 days and if it cannot be resolved within that time then it be brought back before the Council. He stated that he was in favor of the general policy but would like to postpone any site specific action. Administrator Brown stated that he would like to ask for a postponement to the next meeting since the letter received today is significantly different letter than the one received by staff last week from the same firm. In that letter, it basically said that the City had to give the property owners the water service since they are current water customers even though they are outside of the current city limits. However, he stated that there is case law that differs from the attorney's original letter to the City.

Mayor Figley stated that she would like to have some policy discussion relating to city services for property outside of the City. In the past, it had been policy that property owners were to annex into the City for these services since it is a fairness issue to current city residents. However, for this particular site specific request, she felt that the property owners should be given the opportunity to address the Council.

Councilor Bjelland stated that there are two issues before the Council and felt that discussion on the policy is appropriate for this meeting. He concurred that if there is movement to begin annexation into the City on this particular property and, if that is the direction being taken, then a decision regarding turning off the water can be delayed to a subsequent meeting.

- 2112 Jackie Ito requested that the letter from Attorney Rhoten be recognized and that this agenda item be tabled in order for her family and their attorney to further discuss more thoroughly the possibility of voluntarily annex into the City. It is important that water be provided for a fire sprinkler system for this property.

Mayor Figley reiterated that the City has historically taken the position that city services require the voluntary annexation into the City which is why this issue is before the Council.

It was the consensus of the Council to include this item on the next Council agenda.

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- 2346 Administrator Brown stated that there are 17 properties spread around the City with a little over half of these properties being zone commercial and all are located along Highway 99E with many of them on South Pacific Highway 99E. Several of the residential properties are also located off of Highway 99E. The properties are all contiguous with City limits and there would be no hindrance to annexation other than the property owners reluctance to annex into the City. Staff has been discussing as to why water service has been allowed to continue at a location that is no longer in use, change of use, or change in ownership. These are similar triggers that are used in other City development codes and staff would like to bring the policy more consistent with other development policies. In fairness to all of those properties that have annexed in the past because the City required them to annex, this policy to allow the discontinuance of water service is a good policy that benefits the rate payers within the City and the taxpayers in general. He stated that there are no City ordinances that address this specific matter. Additionally, there are some property owners with sewer service, some of which have both water and sewer service, but staff is focused on water service at this time. In the event there is a agreement between a property owner and the City regarding water / sewer service, the policy would not be applied.
- It was the consensus of the Council for staff to proceed with drafting an ordinance on a policy defining triggers that would require the property owner to annex into the City in order to receive city services.

2926 **LIQUOR LICENSE - CHANGE OF OWNERSHIP APPLICATION: TOP OF THE TEE RESTAURANT, 1776 COUNTRY CLUB ROAD.**

A change of ownership Limited On-Premise liquor license application was submitted by Top-O-Hill Restaurant, Inc., DBA: Top of the Tee Restaurant located at 1776 Country Club Road.

BJELLAND/SIFUENTEZ... recommend to the Oregon Liquor Control Commission approval of a liquor license application for Top of the Tee Restaurant. On roll call vote, the motion passed 5-1 with Councilor Nichols voting nay and stating that he had nothing against the Top of the Tee Restaurant but he is opposed to all alcohol sales and what alcohol consumption does to an individual.

3009 **PARTICIPATION IN MODEL SIGN ORDINANCE COMMITTEE.**

Attorney Shields requested Council approval of his participation on a Committee that would draft model sign code provisions in compliance with recent court decisions.

BJELLAND/MCCALLUM... approve the City Attorney's participation. The motion passed unanimously.

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3100 City Attorney Shields provided a brief update on the Assistant City Attorney position. This recruitment process resulted in a number of qualified applicants and, after interviewing 6 candidates today, he felt that he would be able to select an individual to fill the position.

3205 **PLANNING COMMISSION OR ADMINISTRATION LAND USE ACTIONS.**

A) Planning Commission's approval of Design Review 05-13 located at 1539 Mt.

Hood Avenue: Approve construction of a 11,633 square foot multi-tenant commercial building which will house restaurant and retail space.

No action was taken by the Council to bring this item up for review.

3248 **CITY ADMINISTRATOR'S REPORT.**

A) Administrator Brown stated that he is working with City Consultant Greg Winterowd to put together a presentation for the public hearing before the Marion County Commissioners. Presenters will include the Mayor, a Planning Commission representative, our Consultant, and staff members. He invited other Councilors interested in giving testimony to contact him tomorrow to discuss presentation material.

B) In regards to the Community Development Director recruitment, there will be 6 applicants invited to interviews on May 12th. The interview process will include being interviewed by the department personnel, City Department heads, and a group of Administrative individuals. On May 13th, he will then interview those individuals who advance to the next interview phase. He hopes to be able to have a hiring decision before the Council by the following Council meeting.

C) In regards to Council Bill No. 2623, the contingency fund transfer of \$5,000 provides for a beautification project along Highway 214. A red maple tree will be planted along the length of the parkway between Meridian Avenue and slightly beyond the high school on the south side of the roadway. The State has given the City approval for the landscaping project which will include a drip irrigation system and placement of a drip irrigation system out to the median strip.

3525 **MAYOR AND COUNCIL REPORTS.**

Councilor McCallum wished the Library a happy 100 years and yesterday's program to celebrate this event was very good.

Mayor Figley added that it was exciting to be a part of a community that really cares about its Library services.

Councilor Sifuentez stated that it is National Volunteer Week and she thanked all of the volunteers in the Woodburn community for their time and talents in making our community stronger.

Councilor Cox stated that she had received a letter from Patti Westfall regarding the parking of motor homes in front of residences and how owners look at different ways to get around the City's 72-hour rule. He hoped that the City would do something about this

COUNCIL MEETING MINUTES
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issue whether it be enforcement or making an amendment to the ordinance.
Administrator Brown stated that staff is looking into this issue and a report will be made to the Council.

4020 **ADJOURNMENT.**
MCCALLUM/NICHOLS ... meeting be adjourned. The motion passed unanimously.
The meeting adjourned at 9:30 p.m..

APPROVED _____
KATHRYN FIGLEY, MAYOR

ATTEST _____
Mary Tennant, Recorder
City of Woodburn, Oregon

WOODBURN PLANNING COMMISSION MEETING MINUTES
April 27, 2006

CONVENED The Planning Commission met in a regular session at 7:00 p.m. in City Hall Council Chambers with Chairperson Lima presiding.

Chairperson Lima questioned members of the Planning Commission having potential conflicts such as family, financial, or business relationship with any of the applicants or with regard to the project in question. If such a potential conflict exists, he asked whether the commission in question believes he or she is without actual bias or whether he or she would like to step down from the Planning Commission during the case.

Chairperson Lima announced: agenda is available at the back of the room. We will consider cases one at a time according to the order listed in the agenda. We will follow the hearing procedure outlined on the public hearings procedures board. All persons wishing to speak are requested to come to the podium and give their name and address. Any individuals speaking from other than the podium will not be recognized.

ROLL CALL

Chairperson	Lima	P
Vice Chairperson	Bandelow	P
Commissioner	GrosJacques	P
Commissioner	Vancil	P
Commissioner	Grigorieff	P
Commissioner	Hutchison	P
Commissioner	Jennings	P

Staff Present: Naomi Zwerdling - Interim Community Development Director
 Jason Richling – Associate Planner
 Marta Carrillo – Administrative Assistant

MINUTES

- A. Woodburn Planning Commission Meeting Minutes of April 13, 2006.**
Commissioner Jennings moved to accept the minutes as written. Commissioner Grosjacques seconded the motion, which unanimously carried.

BUSINESS FROM THE AUDIENCE

None.

COMMUNICATIONS

- A. Woodburn City Council Meeting Minutes of March 13, 2006.

PUBLIC HEARING

Planned Unit Development 05-01 and Variance 06-01 (lot orientation), Request for Planned Unit Development (PUD) Preliminary Plan Approval and PUD Design Plan Final Approval for 39 single-family residential lots and 2 common area tracts on Lot #1 of the

Town Center at Woodburn Plat and variance approval to orient lot #13 toward the private access easement instead of Jonah Street, Mark Dane, applicant.

Chairperson Lima asked the Planning Commission, if they had any potential conflicts of interest, ex parte contacts, or challenges. None.

Staff Report

Interim Community Development Director Zwerdling read the appropriate ORS.

Associate Planner Richling presented in a powerpoint presentation.

Slide #1

Subject property is approximately 8 acres in area located at the southern terminus of Evergreen Rd., west of the Harbor Meadows apartments and south of the Walmart Supercenter. It is located in the Medium Density Residential (RM) zone. Site built single family homes are an outright permitted use in the RM zone. Also included is the local wetlands inventory as well as the Town Center of Woodburn inventory delineation of wetlands that indicate no wetlands are located on the subject site. The property is relatively flat and is located outside the 500 year FEMA flood plain.

Slide #2

Shows an aerial view of the subject property as well as Evergreen Rd.

Slide #3

Shows photos of the property looking across the site. The property is very flat. One shows a view from Evergreen Rd. looking north and the other is looking east across the property towards Harvard Meadows Apartments.

Slide #4

Woodburn Town Center plat that shows lot #1 abutting Evergreen Rd. Center St. will terminate at the center of the property.

Slide #5

The applicant proposes a 39 single-family lot (illustrated on the preliminary plat) and two common open areas.

Slide #8

Tract A incorporates the open space landscaping abutting the single-family lots. The applicant proposes to locate a play structure, pedestrian path and benches that lead from the sidewalk to the planned internal street system.

Tract B is located northeast of Tract A (1 block) and also contains the benches, pedestrian path, perimeter landscaping and access from the right of way and sidewalks.

The applicant was required to provide 0.1 acre of open space per one acre of PUD. The applicant has exceeded the requirement and provided an additional 0.1 acre of space. That is a positive aspect for this area of Woodburn.

Slide #9

The applicant has met the applicable sections of the WDO with the exception of the lot orientation of proposed lot 13.

The WDO defines front lot line as the lot line parallel to the right of way. In this case, it would be the west property line, which gives the lot a depth of 55' and width of 126'. The applicant is proposing to angle the lot towards the access easement instead of the public right of way. If accomplished, then the lot would meet all the lot standards of the WDO of 126' x 55.78' wide and the standard for a PUD lot, which is 90' deep and 55' wide. Staff is in support of the variance.

Based on the information in the report, the information provided by the applicant and the applicable review criteria, the findings necessary to approve the proposal can be made and staff recommends approval of PUD 05-01 and VAR 06-01 subject to the conditions of approval listed in the staff report. Concluded the presentation and became available for questions.

Chairperson Lima opened the forum for questions for staff.

Commissioner Jennings asked about the WDO standards on flag lots and the subject site being a PUD.

Associate Planner Richling stated that the situation exists in the city and it existed on the subject site due to the awkward shape of the lot compared to many sites. Any flag lot would have the same requirement.

Interim Community Development Director Zwerdling stated that it could occur in a subdivision. It is usually in the in-fill awkwardly shaped lots. The code requires the orientation of the lot towards the street and in this case the Planning Division is recommending and orienting the lot towards the access easement.

Commissioner GrosJacques asked about Center Street and when it would be completed.

Associate Planner Richling stated that the applicant is providing internal streets. The WDO also requires completion of the boundary street improvement, which will be Evergreen Rd. abutting the property to the south property line. A different portion of the code also requires all developments of 25 lots or more to provide two non-overlapping access to the main arterial, which is Hwy 214. Therefore the applicant will be required to provide improvements to Center Street and Stacy Allison Way to the major arterial and to Evergreen Rd. completing the section of Evergreen Rd. This will be attached to the approval.

Currently, the Public Works Department has plans from the developer of the subdivision. The plans are under review and approval is also required to make improvements. Each project needs to stand alone just like this project needs to make their own improvements.

Commissioner Jennings asked if the current project has to make improvements to Center Street and bring Stacy Allison Way to meet with Center Street.

Associate Planner Richling confirmed that was correct.

Commissioner Vancil asked about the traffic on Evergreen Rd. going out to Hwy 214 and did it call for improvements at the intersection.

Associate Planner Richling stated that at this time improvement are not required at the Hwy 214 and Evergreen Rd intersection per the Public Works Department.

Chairperson Lima invited the applicant for testimony.

Mark Dane, Blue Sky, Inc., 4800 SW Griffith, Beaverton, applicant, stated that they have been working with the Planning Division and adjusting the plan and meeting specific requirements for the City of Woodburn. They are proposing a PUD with two open spaces, one being primarily to accommodate individuals with children and the other to accommodate individuals without children. Proposing a 39 lot subdivision with parks. All the utilities are or can be made available. They have complied with every section of the code criteria. The staff presented a staff report with findings and conditions for approval.

Chairperson Lima opened the forum for questions for the applicant.

Chairperson Lima asked that if approved, when is the proposed start date.

Dane answered that four developers were involved with the project and each had their preliminary approval for a while. Blue Sky Inc. is the last section of the approval process and with enough funds available to comply with the conditions of approval. They would be held to complete and also the other developments are tied into completing the roads from Evergreen Rd., all the way to Center St. They understand that the final construction drawing is ready. As soon as the meeting ends he would be making a call and things can progress further.

Vice-Chairperson Bandelow commented that the CC&R's for this development was one of the best ever submitted.

Dane stated that an electronic version is available. Most of the problems occur not when they are new, but as the development ages. To deal with the maintenance and enforcement issues, the CC&R's ensure that the community has some way to assure that their area stays well maintained, especially with the open areas.

Chairperson Lima commented that he was impressed with the houses being developed in the area and this proposal is a positive addition to the City.

Dane stated that there is a market for the type of product. The development was combined with a small park to accommodate families with young children and having the park as an amenity and attraction.

Chairperson Lima invited testimony from proponents. None.

Chairperson Lima invited testimony from opponents. None.

Chairperson Lima closed the hearing and opened the discussion from the Planning Commission.

Commissioner Hutchison commented about the parks that were mentioned in previous meetings and bringing them into the new developments.

Commissioner Vancil stated that with new developments going in there is limited amount of space for parks. He was very impressed with this proposal that included a park for the families. He was concerned about traffic issues at the intersection of Hwy 214 and Evergreen Rd.

Commissioner Hutchison stated that the comments about traffic were geared towards the City Council and for them to take that into consideration.

Vice-Chairperson Bandelow commented that a new form of development has been foreseen, where there is an economical way to place an elevator in a home as land prices have risen. Ranch style homes are becoming less. The elevator makes it economically feasible for a two-story house. An example is a new church property being developed and providing open space for children's play area and also having community activities. The more land that can be reserved for those activities and play area by building a feasible development would be cost effective.

Vice-Chairperson Bandelow made a motion to approve PUD 05-01, VAR 06-01 for the lot orientation with staff's facts and findings to support the decision, seconded by Commissioner Vancil.

ROLL CALL

Chairperson	Lima	yes
Vice Chairperson	Bandelow	yes
Commissioner	GrosJacques	yes
Commissioner	Vancil	yes
Commissioner	Grigorieff	yes
Commissioner	Hutchison	yes
Commissioner	Jennings	yes

ITEMS FOR ACTION

Interim Community Development Director Zwerdling commented that a Final Order for approval of Planned Unit Development 05-01, Variance 06-01 (lot orientation) for 39 single-family residential lots and 2 common area tracts on Lot #1 of the Town Center at Woodburn Plat and variance approval to orient lot #13 toward the private access easement instead of Jonah Street has been prepared.

Commissioner GrosJacques moved to accept the Final Order for approval of PUD 05-01, VAR 06-01, Commissioner Vancil seconded the motion, which passed unanimously.

DISCUSSION ITEMS

None.

REPORTS

None.

BUSINESS FROM THE COMMISSION

Chairperson Lima stated that he would be able to continue serving as the Planning Commission Chairperson.

Commissioner Jennings proposed that prior to commencing the meeting, that we start with a flag salute. It is performed at City Council meetings.

Chairperson Lima asked if the consensus of the Planning Commission was agreed on to commence the meeting by saluting the flag.

Chairperson Lima commented that he appreciated the small size plans as opposed to the large size plans. It is much easier to view the site plans.

Interim Community Development Director Zwerdling stated that it also helps the applicant in expenses by supplying smaller plans rather than full size plans because of the required amount of copies.

Interim Community Development Director Zwerdling states that tracking sheets are available at the first meeting of the month.

Commissioner Jennings inquired about the Community Development Director position and its search by the City.

Interim Community Development Director Zwerdling stated that the amount of candidates has been narrowed down to approximately six individuals. The City Manager mentioned that May 12, 2006 is the scheduled date for interviews with a 3-stage process that involves departmental staff, department heads and other planning directors. Once the individual has made it through that process, then they will interview with the City Manager.

Commissioner Jennings commented that the candidates are to be interviewed by the Community Development staff, which is in the right direction because of their direct involvement with the Director.

Chairperson Lima asked where the applicants are from.

Interim Community Development Director Zwerdling stated that applicants are from out of state and in state. She also mentioned that it was a wonderful idea to have staff involved in the interview process so that they will see the personality of the individual who will become the director and be their leader.

Chairperson Lima inquired about local applicants.

Interim Community Development Director Zwerdling stated that three individuals are in state.

Vice-Chairperson Bandelow inquired about the responses for the Assistant City Attorney.

Interim Community Development Director Zwerdling stated that the interview has commenced and a selection will be made soon.

Commissioner Jennings commented that the Recreation and Parks Director will not be replaced and the Library Director also will not be replaced. One person will head both departments and have more middle management.

Vice-Chairperson Bandelow asked about the political signs along Hwy 99 E and the limit on the number of signs allowed for commercial property.

Interim Community Development Director Zwerdling stated that contact has been made by Associate Planner Pike-Salas and the code enforcement process has started.

The process for removal of signs is making an initial contact with the property owner and letting them know of the violation and allotting them time to come into compliance. If it has not been brought into compliance, then it's handed over to Code Enforcement and a fine situation starts. If signs are in the right of way, they are removed.

Commissioner Jennings asked if political signs were under a different code.

Interim Community Development Director Zwerdling stated that political signs are not under a different code and the State does not supersede the regulations of the City. The State Elections Office was contacted and they advised that political signs need to follow the ODOT standards if in the right of way and the WDO if in the City of Woodburn.

Vice-Chairperson Bandelow stated that City signs are content neutral regardless of what type of sign.

Commissioner Vancil asked if a residence is allowed a sign.

Interim Community Development Director Zwerdling stated that a residence is allowed to have two signs per the WDO.

Chairperson Lima stated that on that location a sign is almost billboard size.

Vice-Chairperson Bandelow stated that the visual improvement of Hwy 99E is getting better but with those political signs, it will not help with that improvement. It's not helping the candidates because they're unreadable.

Interim Community Development Director Zwerdling stated that the staff are pulling the signs out of the right of way, but they are quickly replaced.

Vice-Chairperson Bandelow stated that sending a letter to the real estate agents in the area and informing them of the violation is a good idea.

Vice-Chairperson Bandelow stated that most signs are not pleasing.

Commissioner Vancil stated that Woodburn has done much improvement and the sign ordinance is making a difference.

Commissioner Jennings stated that \$5,000 was moved from the contingency fund and used towards planting trees along Hwy 214.

The Police Chief offers tours every other Friday to look at the Police Facility. They are predicting an August or September open date and are under budget.

Interim Community Development Director Zwerdling stated that the City does have a tree ordinance for a list of recommended trees for size and prohibited types of trees.

Commissioner Hutchison commented about the intersection of Hwy 214 and Evergreen Rd. corner and the gravel caused by the trucks and it being an entryway to the City. It has also made it hard for people to cross because of no sidewalks.

Commissioner Jennings stated that the solution could be to make Lawson St. going north as a one-way.

Commissioner Vancil stated that for individuals wanting to use the businesses along that street and it becoming a one-way, they would have to go all the way down to Evergreen Rd. to Stacy Allison Way and then back up to Lawson. The Interchange Management Overlay District is based on the amount of vehicles that are produced by each property and what can be approved on any given property based on the amount of traffic that it produces.

Interim Community Development Director Zwerdling stated that they have particular tax lots and they can only have a certain number of trips. The way you can generate more trips is by utilizing more than one tax lot and a larger area. Most of the capital development commercial properties are subject to that requirement. They also have trip permit limits for the industrial land they are proposing on the west side of I-5. There is some flexibility on the trips if you are bringing in a certain type of industrial development. They must prove that they will comply with the number of trips allowed by preparing a traffic study based on trips. The traffic study is then reviewed by ODOT and the City of Woodburn. The process is coordinated with the Planning Division.

Chairperson Lima inquired about the congestion of the area. It has been a concern for the Planning Commission. During the Walmart expansion, they were asked to help with improvements in the area and their response was that they had paid the SDC's required.

Commissioner Vancil stated the SDC's are above average and commercial and residential pay higher amounts.

Commissioner Hutchison inquired that since repairs for sidewalks in a residence is the responsibility of the property owner, is the commercial property owner not responsible for the intersection or does it fall on the jurisdiction of the state and not enforced by the City?

Interim Community Development Director Zwerdling stated that if it is in the ODOT right of way, it is regulated by the state. The state has different policies just like every city on what process needs to be made to concerns like those. Contacting ODOT for Hwy inquiries and the City of Woodburn, Public Works Department can be contacted for city streets and sidewalks. Each department could advise on who to speak with and what process needs to be taken.

ADJOURNMENT

Vice-Chairperson Bandelow moved to adjourn the meeting. Commissioner Grosjacques seconded the motion, which unanimously carried. Meeting adjourned at 8:01 pm.

APPROVED _____
CLAUDIO LIMA, CHAIRPERSON Date

ATTEST _____
Naomi Zwerdling Date
Interim Community Development Director
City of Woodburn, Oregon

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PLANNING PROJECT TRACKING SHEET

Revised: 5/4/2006

Applicant	Project Description	Date Received	Deemed Complete	120-Day Date	Planner	Referrals	Facilities Meeting	Mail Notice for PC	Notice to Paper	Post Property	Stf Rpt Due	PC Hearing	Final Order Due	PC Final Order	Mail Notice for CC	Notice to Papers	Post Property	Stf Rpt Due	CC Hearing	Ord. Due	CC Ord. Adoption	Appeal Ends
DR 06-02	Mihai Talvan Construct a 3,888 square foot distillery, LFBitt Distillery, Inc., at 1501 Industrial Avenue in the IP zone.	3/3/06	Complete 3/30/06	7/28/2006 extended until 9/25/06	Breah	3/30/06	4/13/06															
VAR 06-01	Wallace Lien Variance to 20-foot setback requirement abutting Workman Drive at 120 Workman Drive	3/29/06	Incomplete 4/17/06		Breah																	
PLA 06-01	Byron Hendricks Consolidate 8,293sf and 29,264sf lots at 1840 Newberg Highway	4/4/06	Complete 4/17/06	8/15/06	Jason	4/17/06	NA															
DR 06-03	Copart, Inc. Improve site for vehicle wholesale at 2885 National Way	4/6/06	Incomplete 4/17/06		Breah																	
PAR 06-02	Thomas Pierce Proposed 3-lot partition at 1645 West Hayes Street	4/10/06			Jason																	
LA 06-01	City of Woodburn Mill Creek Greenway Master Plan	1/18/06	Complete 1/18/06	NA	Naomi			2/17/06	2/17/06	NA		3/9/06		3/23/06	2/17/06	NA	NA		4/24/06			
Urban Renewal Program	Urban Renewal District approved by voters on 3/12/02				John Naomi																	

PLANNING PROJECT TRACKING SHEET

Revised: 5/4/2006

Applicant	Project Description	Date Received	Deemed Complete	120-Day Date	Planner	Referrals	Facilities Meeting	Mail Notice for PC	Notice to Paper	Post Property	Stf Rpt Due	PC Hearing	Final Order Due	PC Final Order	Mail Notice for CC	Notice to Papers	Post Property	Stf Rpt Due	CC Hearing	Ord. Due	CC Ord. Adoption	Appeal Ends
LA 05-01 Periodic Review Task Completion	Periodic Review tasks are complete.				Naomi			01/14/05	01/14/05	N/A		02/03/05		3/10/05	N/A	N/A	N/A		03/28/05			

Community Development\Planning\Miscellaneous\Other\Planning Case Log

CITY OF WOODBURN
Community Development

MEMORANDUM

270 Montgomery Street Woodburn, Oregon 97071


(503) 982-5250

Date: May 1, 2006
To: John Brown, City Administrator
From: Building Division
Subject: Building Activity for April 2006

	2004		2005		2006	
	No.	Dollar Amount	No.	Dollar Amount	No.	Dollar Amount
New Residence Value	13	\$2,141,211	6	\$969,484	19	\$3,705,425
Multi Family	0	\$0	0	\$0	0	\$0
Assisted Living Facilities	0	\$0	0	\$0	0	\$0
Residential Adds & Alts	5	\$122,664	1	\$1,200	4	\$61,953
Industrial	0	\$0	0	\$0	0	\$0
Commercial Value	13	\$450,247	12	\$203,020	7	\$155,025
Signs, Fences, Driveways	4	\$23,990	4	\$6,400	5	\$13,300
Manufactured Homes	2	\$58,000	1	\$1,000	1	\$13,000
TOTALS	37	\$2,796,112	24	\$1,181,104	35	\$3,948,703
Fiscal Year (July 1- June 30) to Date		\$25,422,032		\$19,260,045		\$33,836,777

May 8, 2006

TO: Honorable Mayor and City Council

FROM: John C. Brown, City Administrator 

SUBJECT: **Intergovernmental Agreement for Interchange Funding**

RECOMMENDATION:

Information item, no action necessary.

BACKGROUND:

On April 10, 2006, the City Council authorized me to execute an intergovernmental agreement (IGA) with the Oregon Department of Transportation (ODOT) to fund I-5 interchange improvements. A draft of the IGA was provided to the Council for review and comment.

DISCUSSION:

The IGA evolved over the past year and with several modifications. Staff considered the version that was presented to you on April 10th the final version. The document directed to City staff thereafter, considered final by ODOT, differed considerably from the version presented to you. ODOT indicated its legal department made a number of changes, for clarity and for brevity.

City staff thoroughly reviewed the document provided by ODOT, and found the revised document acceptable. Changes did not modify the intent of the document or the obligations and rights of the parties, and did make the document clearer and shorter. Staff found two small substantive changes, and asked ODOT to eliminate one and to modify the other. ODOT made those changes.

Following those changes, I executed the document, which has been returned to ODOT for handling at their end. The attached agreement is provided for your information.

**INTERGOVERNMENTAL AGREEMENT
Woodburn Interchange Funding Plan
City of Woodburn**

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," and the CITY OF WOODBURN, acting by and through its designated officials, hereinafter referred to as "City."

RECITALS

1. By the authority granted in ORS 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. On October 31, 2005 City amended its TSP to include proposed improvements to the existing Interstate 5 interchange with Oregon Highways 214 and 219, exit 271, referred to herein as the Woodburn Interchange, to support amendments to its urban growth boundary, land use plan, and zoning ordinance.
3. Concurrent with the TSP amendment, City and ODOT prepared an Interchange Area Management Plan (IAMP) which identifies improvements to the Woodburn – I-5 Interchange area.
4. This agreement serves as a funding agreement to identify the funding obligations agreed to by ODOT and the City to develop the improvements identified in the TSP and IAMP for the Woodburn –I-5 Interchange Area.
5. This agreement serves as written statement by ODOT that the proposed funding and timing of the interchange improvements identified in the Woodburn TSP and in the Woodburn IAMP are sufficient to avoid a significant adverse impact on the Interstate Highway system and that the City may rely upon the improvements pursuant to OAR 660-012-0060(4)(c)(A) and (B).
6. Reconstructing the Woodburn Interchange is a top funding priority of the Mid-Willamette Area Commission on Transportation (MWACT).
7. ODOT is currently developing an Environmental Assessment (EA) document pursuant to the National Environmental Policy Act (NEPA) as required to advance reconstruction of the Woodburn Interchange.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. ODOT and City agree that a general funding plan is needed to demonstrate that adequate funding to reconstruct the Woodburn Interchange will become available within the 20-year planning horizon and in time to avoid a significant adverse impact on the Interstate Highway System.
2. ODOT and City agree that this Agreement shall serve as the funding plan and identifies the party's respective funding obligations. Approval of the funding plan by ODOT and City will also serve as ODOT's written statement that the identified improvements in the IAMP and in the Woodburn TSP are reasonably likely to be provided by the end of the planning period. This determination shall be effective when all parties have signed this Agreement. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Woodburn Interchange.
3. The parties agree that an additional agreement (or agreements) between ODOT and City may be needed to define the administrative process to transfer funds when specific funding sources are identified and funding participation responsibilities are finalized.
4. ODOT and City agree that the overall cost responsibility for funding the Woodburn Interchange reconstruction shall be shared by ODOT and City.
5. ODOT and City agree that the current total reconstruction cost estimate for the Woodburn Interchange is \$48 million.
6. ODOT and City agree that the total City financial contribution towards reconstruction of the Woodburn Interchange shall be \$8 million.
7. ODOT and City agree the \$2.5 million provided by City to ODOT in 2004 (Agreement No. 21,002) to acquire the Zimmer property shall be included as part of City's total financial contribution to reconstructing the Woodburn Interchange.
8. ODOT and City agree that all costs to reconstruct the Woodburn Interchange above the \$8 million provided by City shall be the responsibility of ODOT.

CITY OBLIGATIONS

1. City shall develop and implement funding mechanisms sufficient to ensure its financial contribution. These mechanisms may include private contributions, system development charges, special district fees, general revenue measures, bonding, or any other means at City's disposal that do not involve state transportation funds, or federal transportation funds authorized under Title 23, United State Code (USC). City shall, however, be released from its financial obligations under this Agreement if ODOT receives additional federal funds dedicated to the total project cost.
2. City shall contribute \$8 million as its total local financial contribution towards reconstruction of the Woodburn Interchange. This contribution will be due no later than two years from the date ODOT issues the "Notice to Proceed" for the reconstruction project. The \$2.5 million already provided to ODOT as described in Terms of Agreement Paragraph 7 shall count as part of the \$8 million total to which City is obligated under this Agreement.
3. City will continue to advocate for the state and federal funds to fund the remaining costs to reconstruct the Woodburn Interchange consistent with the priorities established by the OTC.
4. City will continue to advocate for the Woodburn Interchange reconstruction project as a high priority within the MWACT project recommendation process.
5. City will work cooperatively with ODOT to market property remnants resulting from right of way purchased for the reconstruction of the Woodburn Interchange.

ODOT OBLIGATIONS

1. ODOT Region 2 will continue to advocate for the state and federal funds needed to reconstruct the Woodburn Interchange consistent with the priorities established by the OTC.
2. ODOT Region 2 will continue to advocate for the Woodburn Interchange reconstruction project as a high priority within the MWACT project recommendation process.
3. With MWACT support, ODOT Region 2 will advocate for the Woodburn Interchange reconstruction project as a high priority within the Region 2 all Area Commission on Transportation (all ACT) project recommendation process.
4. With "all ACT" support, ODOT Region 2 will advocate for the Woodburn Interchange reconstruction project as a high priority within the statewide project selection process.

5. Upon selection for funding as part of the statewide project selection process, ODOT will include the Woodburn Interchange in the construction section of the STIP at its earliest practical opportunity pursuant to the project recommendation and selection process described in ODOT Obligations, Paragraphs 2, 3, and 4 above.
6. In order to offset the cost of reconstructing the Woodburn Interchange and expedite its reconstruction, ODOT Region 2 staff will work with ODOT to try to direct revenue received from the resale of property remnants from right of way purchased for the reconstruction of the Woodburn Interchange to the project funds needed to reconstruct the Woodburn Interchange.
7. ODOT shall, upon execution of this Agreement, regard the Woodburn Interchange reconstruction described in the Woodburn TSP and in the Woodburn IAMP as a planned improvement for the purpose of implementing the Woodburn Comprehensive Plan and meeting the requirements of the Transportation Planning Rule, OAR 660-012-060(4)(c) (A) and (B).

GENERAL PROVISIONS

1. This Agreement may be terminated by either party upon 30 days' notice, in writing and delivered by certified mail or in person, under any of the following conditions.
 - a. If either party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If either party fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from either party fails to correct such failures within 10 days or such longer period as either party may authorize.
 - c. If either party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow either party, in the exercise of either party's administrative discretion, to continue to make payment for performance of this Agreement.
 - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if either party is prohibited from paying for such work from the planned funding source.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination. This does not obligate either party to fulfill any portion of this Agreement that has not been fulfilled prior to its termination.

3. City acknowledges and agrees that ODOT, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of City which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
4. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
5. This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations, including activities required to implement the biennial budget approved by the Legislature.

SIGNATURE PAGE TO FOLLOW

City of Woodburn/ODOT
Agreement No. 23,240

On November 10, 2004, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways the authority to approve and sign agreements over \$75,000 when the work is related to system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director.


CITY OF WOODBURN, by and through its
elected officials

By 
Title CITY ADMINISTRATOR

By _____
Title _____

Date 5-02-06

APPROVED AS TO FORM

By 
City Legal Counsel

Date 05/03/2006

Agency Contact:
City Administrator
City of Woodburn
270 Montgomery Street
Woodburn OR 97071

STATE OF OREGON, by and through
its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Region 2 Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

Agenda Item

May 8, 2006

TO: Honorable Mayor and City Council through City Administrator
FROM: Naomi Zwerdling, Interim Community Development Director **N.Z.**
SUBJECT: **Ordinance Approving Legislative Amendment 06-01; Mill Creek Greenway Master Plan**

RECOMMENDATION:

Approve the attached ordinance approving Legislative Amendment 06-01.

BACKGROUND:

The City Council, at its April 24, 2006 meeting, directed staff to prepare an ordinance to approve Legislative Amendment 06-01. That ordinance is attached.


DISCUSSION:

None.

FINANCIAL IMPACT:

There is no financial impact associated with the recommended action.

Agenda Item Review:

City Administrator 

City Attorney 

Finance

COUNCIL BILL NO.

ORDINANCE NO.

AN ORDINANCE ADOPTING THE MILL CREEK GREENWAY MASTER PLAN AND MAKING LEGISLATIVE FINDINGS.

WHEREAS, the 1999 Comprehensive Plan Update Policies 5 & 6 state that the City will acquire, develop and operate the Mill Creek corridor as greenways that include multiple functions including: open space and habitat preservation; flood control; cycling and walking on all-weather pathways; nature recreation and education and neighborhood park facilities; and

WHEREAS, to provide more specific direction to implement these policies, the Recreation and Parks Department has developed the Mill Creek Greenway Master Plan through a consulting partnership with the National Park Service's Rivers, Trails and Conservation program and the Mill Creek Task Force; and

WHEREAS, Mayor Figley appointed the Mill Creek Greenway Task Force in December of 2003 that was composed of Greenway neighbors, educators, scientists, land managers, City representatives and others with interests in the corridor who conducted a site inventory, implemented a community survey, organized public design workshops and reviewed work product; and

WHEREAS, the Mill Creek Greenway Task Force, Recreation and Parks Department staff and National Parks Service consultant have received significant support from various City departments including the Public Works, Community Development, Administration and Police Departments who provided valuable technical advice as well as review of the final document to assure that the master plan is in concert with other City plans such as the comprehensive Plan, Transportation System Plan and Storm Water Management Plan; and

WHEREAS, in June of 2005, the Recreation and Parks Board reviewed the Greenway Master Plan and unanimously voted to recommend approval to the City Council; and

WHEREAS, the City Council initiated Legislative Amendment 06-01 (Mill Creek Greenway Master Plan) by resolution on January 9, 2006; and

WHEREAS, the City sent public notice as required by state law and the Woodburn Development Ordinance; and

WHEREAS, the Planning Commission held a public hearing on March 9, 2006 and recommended approval of Legislative Amendment 06-01 (Mill Creek Greenway Master Plan) to the City Council with no amendments; and

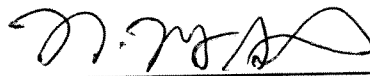
WHEREAS, the City Council held a public hearing on April 24, 2006 and approved Legislative Amendment 06-01 (Mill Creek Greenway Master Plan);
NOW, THEREFORE,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. That the document known as the Mill Creek Greenway Master Plan, which is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby adopted.

Section 2. That the City's adoption of the Mill Creek Greenway Master Plan is justified and explained by the Legislative Findings which are attached hereto as Exhibit "B" and incorporated by this reference.

Approved as to form:



City Attorney

05/04/2006

Date

Approved: _____
Kathryn Figley, Mayor

Passed by the Council _____

Submitted to the Mayor _____

Approved by the Mayor _____

Filed in the Office of the Recorder _____

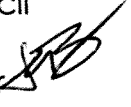
ATTEST: _____
Mary Tennant, City Recorder
City of Woodburn, Oregon

The attachments for Item 11A are not included in this agenda packet. The documents were previously distributed with the April 24, 2006 agenda packet and no changes have been made.

FINANCIAL IMPACT:

There is currently calculable financial impact associated with the recommended action.

April 24, 2006

TO: Honorable Mayor and City Council
FROM: John C. Brown, City Administrator 
SUBJECT: **Water Service at 280 S. Pacific Highway**

RECOMMENDATION:

It is recommended the City Council:




- 1) Authorize disconnection of water service to 280 S Pacific Highway; and
- 2) Adopt the policy that water services outside city limits, will be terminated upon a change of ownership or use, or lapse in use of greater than six months.

BACKGROUND:

Due to historical development, the City provides wastewater and/or water service to a limited number of properties outside city boundaries. There are currently 17 such properties receiving only water service. Of those, nine (9) are residential users, mainly located just east of Pacific Highway. The remaining eight (8) are all commercial properties, located directly on Pacific Highway.

280 S. Pacific Highway is located outside, but immediately adjacent to, city limits. The property is shown on the attached drawing. It was formerly the site of the Miles Chevrolet dealership, and was subsequently a manufactured home dealership. Except for a nightclub that opened and then closed when the current owner purchased the property in 2002, no commercial activity has been conducted on the site since the manufactured home dealership closed.

The property is served by a ¾ inch meter (standard residential size) connection. This provided water to the showroom restrooms, but is not sufficient for fire-flow. The property was served by a septic system, which was sized in proportion to residential water use. Although water use at the property has been minimal, or none, the account remains active and minimum meter charges have been made. Water use occurred in 2005 due to a developing leak, which became

Agenda Item Review: City Administrator  City Attorney  Finance 

significant in December 2005 and for which a leak adjustment was processed in February 2006. There has been no water use since the leak was repaired.

A search of city documents uncovered no record of any historical "will-serve" agreements for the property, and no agreement exists between the City and the current owner to provide water service to the property.

DISCUSSION:

The owner contacted the City recently, asking that additional water be made available to the property for fire-flow. The owner indicated he intends to use the property as an activity center where parties and similar events can be held. The owner was advised that city policy required the property to annex before additional service would be provided. Staff also advised him that city sewer service would also be required, as the on-site septic system is presumably inadequate for the use, and contrary to the City's wastewater ordinance.

The owner contacted the City through an attorney, to indicate he will not annex to the City and to demand the additional water. The City Attorney reiterated the City's position to the attorney, and legal authority for that position.

It is City Council policy not to serve new customers located outside city limits without an annexation agreement. Staff has applied this policy to service upgrades; no upgrade will be made to services currently outside city limits unless the property is annexed. The City Attorney has determined, and long-established case law supports, any utility service provided outside of city limits is at the discretion of the Council, regardless of previous service or length of time that service existed.

Concerns arose almost immediately when the nightclub use opened on this property, none of which were within the City's jurisdiction to address because it is outside city limits. Among these were development code, law enforcement, and wastewater disposal concerns. Although the owner now indicates a different proposed use, there is still strong reason for the City to have regulatory jurisdiction over the property. Some of these concerns may still be relevant, as are issues related to demand on the water system and application of sufficient systems development charges. Annexation provides that jurisdiction.

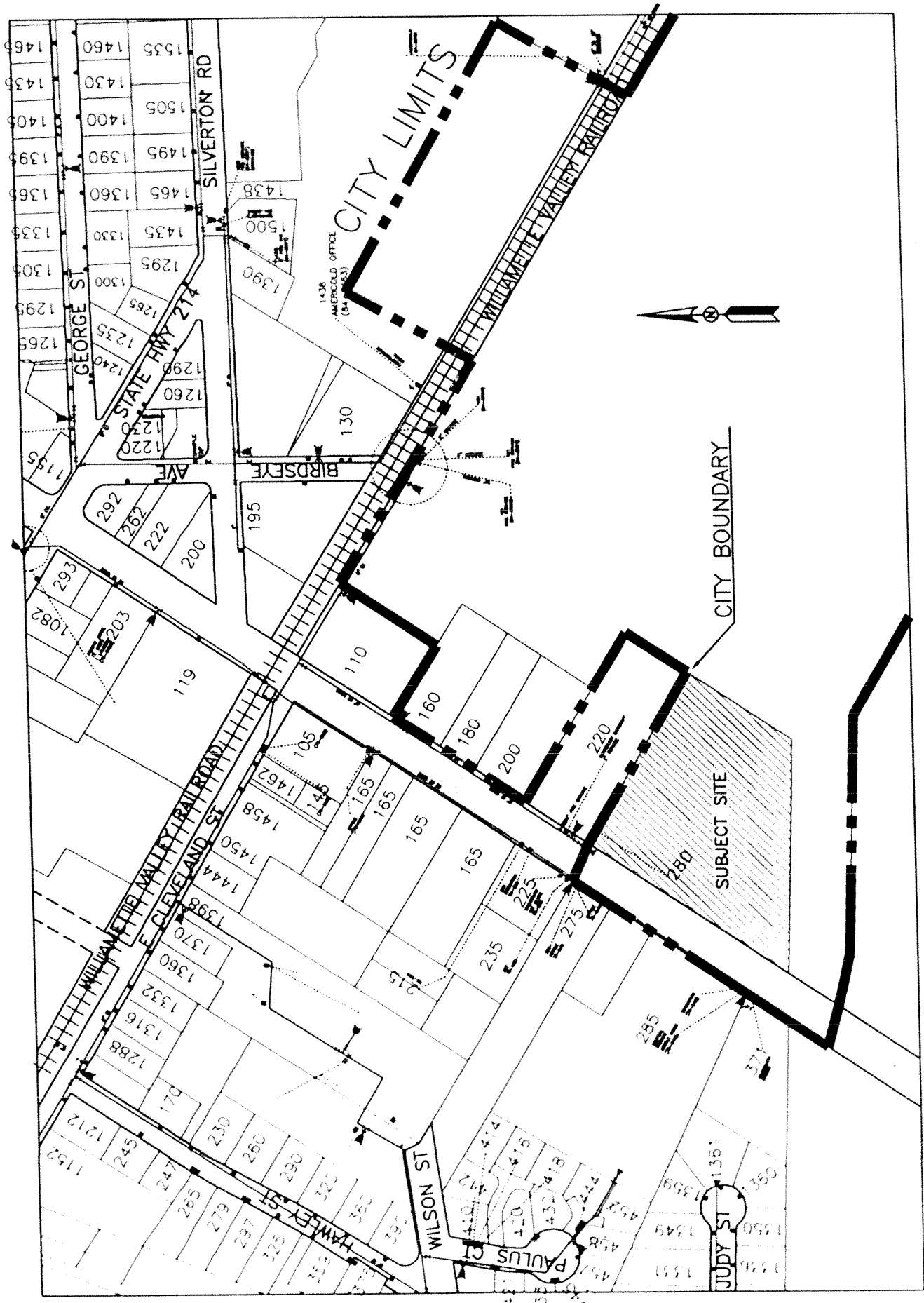
There has been no significant use made of, or water use at, the property since 2002. Staff advises that in this situation, the service has been functionally abandoned. Accordingly, and to strengthen the City's position with respect to

annexation as a condition to providing additional services, it is recommended the water service at 280 S. Pacific Highway should be disconnected at this time.

In addition to the foregoing approval, staff seeks broader policy direction from the Council for dealing with properties outside city limits that have historically been provided water service. Staff proposes to terminate water service at those locations upon a change of ownership or use, or lapse of use for a six-month period.

FINANCIAL IMPACT:

There is currently no calculable financial impact associated with the recommended action.





April 28, 2006

David Rhoten
Attorney at Law
230 Oregon Building
494 State Street
Salem, OR 97301-3654

Dear Dave:

The Woodburn City Council considered your letter regarding water service at 280 S. Pacific Highway, and comments provided by the Rodriguez family, on April 24, 2006. The Council deferred its decision to terminate water service at that location until its May 8, 2006 meeting. Two weeks was provided to allow you to confer with your clients, and for them to initiate the process of annexing the property into the City. The Rodriguez family indicated they understood the Council's annexation and utilities service policies, and the time frame allowed by the Council for resolving this matter. As of today, we have had no contact from your office or your clients.

Unless substantial progress has been reached on an annexation agreement with your client, it will be the City Administrator's recommendation on May 8, 2006 to terminate all water service at 280 S. Pacific Highway. The City Administrator and I will be available to meet with you next week. Please contact me, or my assistant Janice Clay, if you wish to arrange a meeting. You also have my permission to talk directly to the City Administrator.

Attached is an application for annexation, information regarding zone map change requirements and the City's mandatory pre-annexation conference, and Resolution 1786 concerning Measure 37. We are available to discuss these documents in further detail. Thank you and for your professional courtesy.

Sincerely,

N. Robert Shields
City Attorney

Enclosures: Type IV Application Annexation
Type IV Application Requirements Zone Map Change Application
Mandatory Pre-Application Conference for an Annexation Application
Resolution No. 1786

cc: John C. Brown, City Administrator

May 3, 2006

TO: Honorable Mayor and City Council through City Administrator

FROM: David Torgeson, Assistant City Engineer, through Director of Public Works

SUBJECT: **Settlemier Park Lighting Upgrade – Phase 1**

RECOMMENDATION:

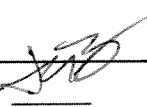

Authorize an additional expenditure not-to-exceed \$18,287 on the contract previously awarded to Kerr Contractors for the Settlemier Park Lighting Upgrade.

BACKGROUND:

The Council awarded a contract in the amount of \$32,000 to Kerr Contractors on April 10, 2006 for Settlemier Park Lighting Upgrade Phase 1. Notice to Proceed was issued April 19, 2006. The contract specified thirty days for completion. Certain electrical work in Settlemier Park that was planned for a second phase is now necessary, and the opportunity to replace damaged light poles at a reasonable cost has arisen.

DISCUSSION:

The lighting upgrade project was divided in two phases to conform to budgeted costs. The intention at that time was to use existing wiring and fixtures (whose operation had been confirmed during design) to supply lighting in the park. This was to be an interim condition - the second phase is scheduled for completion in FY 2006-07. However, during Kerr's startup, the existing wiring was found not capable of powering the present lighting system. The wiring is reported to be un-repairable, because it is direct bury with many splices, and because it is subject to short circuits during heavy rain episodes. For these reasons, new wiring is recommended. Lights will not be operational until Phase 2 without this wiring.

Agenda Item Review: City Administrator  City Attorney  Finance _____

Two existing light fixtures are damaged. There are questions whether any of the poles could be rewired at reasonable cost. Whether adequate conduit was installed when the concrete pedestals were built for all seven lights is also unknown. To have all lights function properly, it is recommended that all existing poles be replaced with new fiberglass poles with acrylic lenses. The poles that are proposed closely resemble those in the Tukwila development.

FINANCIAL IMPACT:

Kerr Contractors has furnished quotations to bring power to the seven existing lights. The amount to accomplish this, above their current contract, is \$8,900. This expense is unavoidable if security lighting is to be provided now. Of this cost, about \$6,000 is for work brought forward to modified Phase 1, and which will not recur during Phase 2 of the lighting upgrade.

The option of installing new poles and luminaires will incur an additional cost of \$9,387 not foreseen in either Phase 1 or 2.

Savings will be possible with the contractor presently onsite and an additional mobilization avoided.

ATTACHMENT:

Summary of items and costs.

Work required to complete Modified Phase I

1	100 Amp safety disconnect	\$ 400.00
2	Install additional Light Contactor (Phase II work)	\$ 400.00
3	Additional Patch work	\$ 750.00
4	Install J-Box to 6 Poles	\$ 2,150.00
5	Install Conduit, trenching and wire to Poles #3 and #6	\$ 2,800.00
6	Install Conduit , Trench, wire and J-Box to Pole #7	\$ 2,100.00
7	Add GFI Receptacle to Mech Room @ restroom for irrigations systems	\$ 300.00

SUB-TOTAL:	\$ 8,900.00
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Additional costs for new lights and poles


1	Demo existing and Install 7 new Light Poles	\$ 4,025.00
2	Purchase of new poles and lights (Similar to Tukwila)	\$ 5,362.00

SUB-TOTAL:	\$ 9,387.00
-------------------	--------------------

TOTAL:	\$ 18,287.00
---------------	---------------------

NOTE: Quotations dated May 2, 2006. Staff expects negotiations with Contractor will produce final cost of \$18,000.00 or less.

May 8, 2006

TO: Honorable Mayor and City Council
FROM: John C. Brown, City Administrator 
SUBJECT: **Contingency Fund Transfer for Settlemier Park
Electrical Upgrade Project**

RECOMMENDATION:

It is recommended the City Council adopt the attached resolution approving a transfer of \$18,300 from General Fund Operating Contingencies (001.901.9971.5921) to the Settlemier Park electrical upgrade project (358.121.9531.5637).

BACKGROUND:

The Council appropriated \$40,000 in the 2005-06 capital budget for electrical upgrades to Settlemier Park. This included \$20,000 to replace the main pool electrical panel, and \$20,000 to replace and bring existing wiring up to code. On April 10, 2006, the City Council accepted Kerr Contractors' bid of \$32,000 to do the majority of the budgeted work. An additional \$6,000 to \$8,000 will be awarded separately, or dedicated to force account work, to complete further work contemplated in the \$40,000 estimate.

DISCUSSION:

In a separate agenda item for your May 8, 2006 meeting you will consider the Public Works Department's recommendation to augment the agreement with Kerr Contractors, to provide for additional wiring work and to replace seven (7) light poles, luminaries, and lenses. That work adds approximately \$18,300 to the cost of the project. As that additional work is needed to provide functioning lights in Settlemier Park, and because economies of scale can be achieved by performing the work under the existing agreement, your approval of the department's recommendation and this budget transfer are recommended. Funds are available in General Fund Contingencies to support these costs.

FINANCIAL IMPACT:

The recommended action will reduce General Fund Operating Contingencies by \$18,300, from \$987,641 to \$969,341.

Agenda Item Review:

City Administrator 

City Attorney 

Finance _____

**COUNCIL BILL NO.
RESOLUTION NO.**

A RESOLUTION AUTHORIZING THE TRANSFER OF OPERATING CONTINGENCY APPROPRIATIONS DURING FISCAL YEAR 2005 – 06.

WHEREAS, Oregon Revised Statutes 294.450 allows for the transfer of operating contingency appropriations within a fund to an existing appropriations category within the same fund during the year in which appropriations are made; and

WHEREAS, the City Council appropriated funds in the 2005-06 capital budget to complete Phase I of the Settlemier Park Electrical Upgrade project; and

WHEREAS, unforeseen conditions have arisen in the course of completing the project which necessitate modifying the scope of work and increasing the project budget; and

WHEREAS, a transfer of General Fund operating contingency appropriations is necessary to pay for increased project costs; **NOW, THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. That authorization is hereby given to transfer the following operating contingency appropriation during fiscal year 2005-06:

GENERAL FUND:

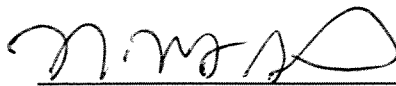
Transfer From:

Operating Contingency (001.901.9971.5921) \$18,300

Transfer To:

General Fund Capital Improvement (358.121.9531.5637) \$18,300

Approved as to form:



City Attorney

05/04/2006

Date

Approved _____

Kathryn Figley, Mayor

Passed by the Council

Submitted to the Mayor

Approved by the Mayor

Filed in the Office of the Recorder

ATTEST:

Mary Tennant City Recorder
City of Woodburn, Oregon

May 3, 2006

TO: Mayor and City Council through City Administrator
FROM: Thomas P. Tennant, Captain
For/Thru: Scott D. Russell, Chief of Police ✓
SUBJECT: **Liquor License – New Outlet**

RECOMMENDATION:

The Woodburn City Council recommend that the Oregon Liquor Control Commission approve a liquor license application for Lil' Bit Distillery Inc.

BACKGROUND:

Owners/Managers:

Mihai Laurentiu Talvan
15156 SW Turquoise Ct.
Beaverton, Or. 97007
Ph: 503-590-2581

License Type: **Other** – Distillery.

On April 13, 2006 the Woodburn Police Department received an application requesting approval for a Distillery license for Lil' Bit Distillery Inc.

Lil' Bit Distillery Inc is a new business to Woodburn it will be opening at 1501 NE Industrial Ave.

The Business will operate Monday thru Friday, between the hours of 7 AM and 5:00 PM. Lil' Bit Distillery Inc will be distilling food grade brandy for bar's and restaurants. Lil' Bit Distillery Inc will not be serving an alcohol nor will there be any tasting events. The police department has received no communication

Agenda Item Review: City Administrator  City Attorney  Finance

from the public or surrounding businesses in support of or against the application.

DISCUSSION:

The police department has completed a limited background investigation on the applicant business and found nothing of a questionable nature. An in-depth investigation was completed on the owners and no offenses that would preclude a license being issued or items of a questionable nature were located. The applicant states that they are seeking to distill food grade brandy for bar's and restaurants. Under the criteria identified by the OLCC and adopted by the City Council I find no reason not to recommend that council recommend to OLCC approval of the application.

FINANCIAL IMPACT:

None

OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

FINANCE DEPARTMENT
CITY OF WOODBURN

APR 13 2006

06-59324
\$100



PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales (\$402.60/yr)
☐ Commercial Establishment
☐ Caterer
☐ Passenger Carrier
☐ Other Public Location
☐ Private Club

☐ Limited On-Premises Sales (\$202.60/yr)
☐ Off-Premises Sales (\$100/yr)
☐ with Fuel Pumps
☐ Brewery Public House (\$252.60)
☐ Winery (\$250/yr)
☒ Other: Distillery

ACTIONS

- ☐ Change Ownership
☒ New Outlet
☐ Greater Privilege
☐ Additional Privilege
☐ Other _____

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

(name of city or county)

recommends that this license be:

Granted ☐ Denied ☐

By:

(signature)

(date)

Name:

Title:

OLCC USE ONLY

Application Rec'd by: OLCC

Date: 4/13/06

90-day authority: ☐ Yes ☒ No

Applying as:

- ☐ Individuals ☐ Limited Partnership ☒ Corporation ☐ Limited Liability Company

1. Applicant(s): [See SECTION 1 of the Guide]

① ~~Mihai Talvan~~ Lil'BIT Distillery Inc.
② _____ ④ _____

2. Trade Name (dba): Lil'BIT Distillery Inc.

3. Business Location: 1501 NE Industrial Ave Woodburn Marion OR 97071
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 15156 SW Turquoise Ct. Beaverton OR 97007
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503.330.1013 503.590.2581
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☐ Yes ☒ No

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: _____

9. Will you have a manager? ☐ Yes ☒ No Name: _____
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? City of Woodburn, Marion County
(name of city or county)

11. Contact person for this application: Mihai Talvan 503.330.1013
(name) (phone number(s))
15156 SW Turquoise Ct. Beaverton, OR 97007 503.590.2581 miketalvan@comcast.net
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] Date _____ ③ _____
② _____ Date _____ ④ _____

RECEIVED
OREGON LIQUOR CONTROL COMMISSION
Date


APR 13 2006 4/13/06

1-800-452-OLCC (6522)
www.olcc.state.or.us

SALEM REGIONAL OFFICE

May 3, 2006

TO: Mayor and City Council through City Administrator

FROM: Scott D. Russell, Chief of Police 

SUBJECT: **Liquor License Change of Ownership**

RECOMMENDATION:

The Woodburn City Council approve a change of ownership application for El Armadillo Loco.

BACKGROUND:



Applicant: Yruretagoyena, Pam D.
1660 Eugene Ct. NE
Keizer, Or 97303
Ph: 503-304-1660

Business: El Armadillo Loco
550 N. First St.
Woodburn, Or. 97071
Ph: 503-982-0127

License Type: **Limited On-Premise Sales** – Permits beer, wine and cider sales for on-premises consumption only, and the sale of kegs of malt beverages.

On April 12, 2006 the Woodburn Police Department received an application requesting approval for a change of ownership for El Armadillo Loco located at 550 N. First St. The above-mentioned applicant has purchased the business and is applying for a license.

During the last 12 months there were no reported liquor law violations by the business.

Agenda Item Review: City Administrator  City Attorney  Finance _____

The business will be open from 10:00 am to 9:00 pm daily. The applicant advises the business will be selling beer and serving food during normal business hours. The police department has received no communication from the public or surrounding businesses in support of or against the change of ownership.

DISCUSSION:

The police department has completed a background investigation on the applicant and found nothing of a questionable nature, which would preclude the issuance of this Liquor License Application.

FINANCIAL IMPACT:

None

OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

PAID

APR 12 2006

06-59030

75⁰⁰



PLEASE PRINT OR TYPE

FINANCE DEPARTMENT
CITY OF WOODBURN

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

(name of city or county)

recommends that this license be:

Granted ☐ Denied ☐

By:

(signature)

(date)

Name:

Title:

OLCC USE ONLY

Application Rec'd by: PENDING

Date: 4/11/06

90-day authority: ☐ Yes ☐ No

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales (\$402.60/yr)
☐ Commercial Establishment
☐ Caterer
☐ Passenger Carrier
☐ Other Public Location
☐ Private Club

☒ Limited On-Premises Sales (\$202.60/yr)

- ☐ Off-Premises Sales (\$100/yr)
☐ with Fuel Pumps

☐ Brewery Public House (\$252.60)

☐ Winery (\$250/yr)

☐ Other: _____

ACTIONS

- ☒ Change Ownership
☐ New Outlet
☐ Greater Privilege
☐ Additional Privilege
☐ Other _____

Applying as:

- ☒ Individuals ☐ Limited Partnership ☐ Corporation ☐ Limited Liability Company

1. Applicant(s): [See SECTION 1 of the Guide]

① Pam Yruretagoyena ③ _____
② _____ ④ _____

2. Trade Name (dba): El Armadillo Loco

3. Business Location: 550 N. First St. Woodburn, OR Marion
(number, street, rural route) (city) (county) (state) (ZIP code) 97071

4. Business Mailing Address: same
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-982-0127
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: Art Sanchez Type of License: LOP

8. Former Business Name: El Armadillo Loco

9. Will you have a manager? ☒ Yes ☐ No Name: Pam
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? Woodburn
(name of city or county)

11. Contact person for this application: Pam Yruretagoyena 503-998-0033
(name) (phone number(s))
1660 Eugene CR NE Keizer, OR 97323
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Pam Yruretagoyena Date 4-11-06 ③ _____ Date _____
② _____ Date _____ ④ _____ Date _____

1-800-452-OLCC (6522)
www.olcc.state.or.us

May 8, 2006

TO: Honorable Mayor and City Council through City Administrator

FROM: Naomi Zwerdling, Interim Director of Community Development *NZ*

SUBJECT: Planning Commission's Approval of Planned Unit Development 05-01 and Variance 06-01 located on Lot No.1 of the Town Center at Woodburn Plat.

RECOMMENDATION:

No action is recommended. This item is placed before the City Council for information purposes in compliance with the Woodburn Development Ordinance. The City Council may call up this item for review if it desires.

BACKGROUND:

On April 27, 2006, the Planning Commission adopted a final order approving Planned Unit Development 05-01 and Variance 06-01 for PUD Preliminary Plan Approval and PUD Design Plan Final Approval of 39 single-family residential lots and 2 common area tracts located on Lot No. 1 of the Town Center at Woodburn Plat, and for variance approval for proposed Lot No. 13 to have the front property line oriented toward the private access easement instead of Jonah Street. The subject property is 7.94 acres in area and is located at the southern terminus of Evergreen Road. It can be identified specifically on Marion County Assessor Map Township 5 South, Range 2 West, Section 12C, Tax Lot No. 2000. The site is currently vacant.

The subject property is zoned Medium-Density Residential (RM), designated on the Woodburn Comprehensive Plan Map as Residential Greater Than 12 Units Per Acre and is vacant. The properties to the north and west (across Evergreen Road) are zoned Commercial General (CG), designated as Commercial on the Woodburn Comprehensive Plan Map, and are the location of vacant land and the Wal-Mart Supercenter. The property to the south is zoned Single-Family Residential (RS), designated Residential Less Than 12 Units Per Acre on the Woodburn Comprehensive Plan Map, and is the location of the approved Montebello III Subdivision (Subdivision Case File No. 03-01). The property to the east is zoned RM, designated Residential Greater Than 12 Units Per Acre on the Woodburn Comprehensive Plan Map and is developed as the Harvard Meadows Apartments. The Woodburn Local Wetlands Inventory map does not

Agenda Item Review: City Administrator  City Attorney  Finance _____

show any wetlands located on the subject property. The applicant has submitted a copy of the wetland delineation for the Town Center at Woodburn Plat (Delineation #31140 RF) with this proposal. The wetland delineation indicates that wetlands are not present on Lot 1 of the Town Center at Woodburn Plat. The subject site is located outside of the 500-year floodplain.

On December 12, 2002, the Planning Commission approved the subdivision of 103 acres (Town Center at Woodburn Subdivision) into 14 lots that range in size from 1.80 to 20.01 acres (Subdivision Case File No. 2002-02). The applicant proposes to subdivide Lot No. 1 of the Town Center at Woodburn Plat into 39 single-family residential lots and 2 common area tracts as part of this planned unit development application request.

The applicant is Mark Dane, Blue Sky Planning, Inc.

The property owner is Capital Development Company.

DISCUSSION:

None.

FINANCIAL IMPACT:

There is no financial impact associated with the recommended action.